

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

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**CIVIL MINUTES - GENERAL**

Case No.	CV 08-4289 CAS (FFMx)	Date	July 28, 2010
Title	ARTHUR ELLERD; ET AL. v. COUNTY OF LOS ANGELES		

Present: The Honorable	CHRISTINA A. SNYDER	
CATHERINE JEANG	NOT PRESENT	N/A
Deputy Clerk	Court Reporter / Recorder	Tape No.
Attorneys Present for Plaintiffs:	Attorneys Present for Defendants:	
Not Present	Not Present	

**Proceedings:** (In Chambers:) **PLAINTIFF'S EX PARTE MOTION FOR AN ORDER ADDING INDIVIDUALS TO THE PLAINTIFF'S CLASS AND ORDERING A FOLLOW UP MAILING TO THE POTENTIAL PLAINTIFF CLASS** (filed 7/16/10)

**I. INTRODUCTION**

On June 30, 2008, plaintiff Arthur Ellerd filed the instant "collective action" against defendant the County of Los Angeles ("the County") for "overtime compensation and other relief" pursuant to the Fair Labor Standards Act, 29 U.S.C. §§ 201-209 ("FLSA"). On February 9, 2009, pursuant to a stipulation by the parties, plaintiffs Arthur Ellerd and Jose J. Troconis filed a first amended complaint ("FAC") against defendant alleging that defendant failed to pay plaintiffs, and other similarly situated employees, overtime wages in violation of the FLSA.

On August 10, 2009, the Court granted plaintiff Arthur Ellerd's "Hoffman-La Roche Motion for 'conditional certification' of a collective action, issuance of class notice, and equitable tolling of limitations." The Court ordered notice to be issued both by mail and by workplace posting to the class, defined as follows:

ALL PERSONS WHO HAVE BEEN EMPLOYED AS AN ADULT PROTECTIVE SERVICES SOCIAL WORKER AT THE LOS ANGELES COUNTY DEPARTMENT OF ADULT PROTECTIVE SERVICES AT ANY TIME FROM JUNE 20, 2005, TO THE PRESENT.

On October 2, 2009, defendant filed a motion for interlocutory appeal of the Court's conditional certification of plaintiff's class, which the Court denied on October

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22, 2010.

On July 16, 2010, plaintiff filed the instant ex parte application “for an order adding individuals to the plaintiff class and ordering a follow up mailing to the potential plaintiff class.” On July 20, 2010 defendant filed its opposition. After carefully considering the arguments set forth by the parties, the Court finds and concludes as follows.

**II. DISCUSSION**

Plaintiff requests a Court order permitting the addition of six individuals to the class. Mot. at 1. Plaintiff contends that while these individuals timely submitted their Consent to Sue forms, they were not made part of the plaintiff class for unknown reasons. Id. Plaintiff’s counsel further requests an order authorizing her to mail to all potential class members a list of all individuals who are currently part of the class and permission to direct anyone who timely submitted a Consent to Sue form who is not listed as a class member to contact plaintiff’s counsel. Id. at 3.

Defendant responds that plaintiff’s application should be denied in its entirety, because on February 9, 2010, this Court extended the notice and opt-in period by an additional 30 days and specifically ordered that “no further extensions of the opt-in period will be granted.” Opp’n at 1. Furthermore, defendant contends that if plaintiff’s application is granted, this will be the sixth mailing to the putative class of over 200 current and former Adult Protective Services social workers in the last seven months. Id. Moreover, defendant argues that plaintiff’s counsel has improperly provided only unsigned declarations from five of the six class members she requests to add to the class. Id. at 2.

The Court finds that plaintiff has failed to show good cause to again extend the notice and opt in period, and therefore DENIES with prejudice plaintiff’s request for an order granting plaintiff authorization to send an additional mailing to potential class members. Furthermore, with regard to plaintiff’s request to add six individuals to the class, the five declarations from putative class members proffered by plaintiff are unsigned and therefore inadmissible. Accordingly, the Court DENIES without prejudice plaintiff’s request to add six additional class members to the class.

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**III. CONCLUSION**

In accordance with the foregoing, the Court hereby DENIES plaintiff's ex parte application.

IT IS SO ORDERED.

Initials of Preparer	00	:	00
	CMJ		